

Environmental Protection Agency

§ 93.164

(d) If the total direct and indirect emissions from the Federal actions in conjunction with the other emissions subject to General Conformity from the facility exceed the budget adopted pursuant to paragraph (a) of this section, the action must be evaluated for conformity. A Federal agency can use the compliance with the facility-wide emissions budget as part of the demonstration of conformity, *i.e.*, the agency would have to mitigate or offset the emissions that exceed the emission budget.

(e) If the SIP for the area includes a category for construction emissions, the negotiated budget can exempt construction emissions from further conformity analysis.

[75 FR 17277, Apr. 5, 2010]

§ 93.162 Emissions beyond the time period covered by the SIP.

If a Federal action would result in total direct and indirect emissions above the applicable thresholds which would be emitted beyond the time period covered by the SIP, the Federal agency can:

(a) Demonstrate conformity with the last emission budget in the SIP; or

(b) Request the State or Tribe to adopt an emissions budget for the action for inclusion in the SIP. The State or Tribe must submit a SIP or TIP revision to EPA within 18 months either including the emissions in the existing SIP or establishing an enforceable commitment to include the emissions in future SIP revisions based on the latest planning assumptions at the time of the SIP revision. No such commitment by a State or Tribe shall restrict a State's or Tribe's ability to require RACT, RACM or any other control measures within the State's or Tribe's authority to ensure timely attainment of the NAAQS.

[75 FR 17278, Apr. 5, 2010]

§ 93.163 Timing of offsets and mitigation measures.

(a) The emissions reductions from an offset or mitigation measure used to demonstrate conformity must occur during the same calendar year as the emission increases from the action ex-

cept, as provided in paragraph (b) of this section.

(b) The State or Tribe may approve emissions reductions in other years provided:

(1) The reductions are greater than the emission increases by the following ratios:

(i) Extreme nonattainment areas	1.5:1
(ii) Severe nonattainment areas	1.3:1
(iii) Serious nonattainment areas	1.2:1
(iv) Moderate nonattainment areas	1.15:1
(v) All other areas	1.1:1

(2) The time period for completing the emissions reductions must not exceed twice the period of the emissions.

(3) The offset or mitigation measure with emissions reductions in another year will not:

(i) Cause or contribute to a new violation of any air quality standard,

(ii) Increase the frequency or severity of any existing violation of any air quality standard; or

(iii) Delay the timely attainment of any standard or any interim emissions reductions or other milestones in any area.

(c) The approval by the State or Tribe of an offset or mitigation measure with emissions reductions in another year does not relieve the State or Tribe of any obligation to meet any SIP or Clean Air Act milestone or deadline. The approval of an alternate schedule for mitigation measures is at the discretion of the State or Tribe, and they are not required to approve an alternate schedule.

[75 FR 17278, Apr. 5, 2010]

§ 93.164 Inter-precursor mitigation measures and offsets.

Federal agencies must reduce the same type of pollutant as being increased by the Federal action except the State or Tribe may approve offsets or mitigation measures of different precursors of the same criteria pollutant, if such trades are allowed by a State or Tribe in a SIP or TIP approved NSR regulation, is technically